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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,353	11/08/2001	Tetsuro Hanawa	025311-0111	5237
22428	7590	06/03/2003		
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER	
			ESPLIN, DAVID B	
		ART UNIT	PAPER NUMBER	
		2851		

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/986,353	HANAWA, TETSURO	
	<b>Examiner</b>	<b>Art Unit</b>	
	D. Ben Esplin	2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 01 May 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3,4,5</u> .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### *Election/Restrictions*

Claims 10-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### *Information Disclosure Statement*

The information disclosure statement filed 6/28/02 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Japanese patent document 5-57838 does not include an English language abstract and the statement of relevance does not explain the relevance of the exposure apparatus discloses therein to the projection aligner defined in claims 1-9.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipate by U.S. Patent No. 5,363,171 to Mack.

FIG. 1 of Mack shows a projection aligner for projecting a mask (mask 102) onto a substrate (wafer 104) including a reflectance measuring mechanism (light source 101 and reflectance 106), a branching system (beam splitter 108) and a control mechanism (control electronics/mechanism 107). The aligner of Mack also includes an adjuster (shutter 116) for controlling an intensity of exposure light. Once an appropriate exposure light intensity has been determined by a determining system within the control mechanism, a changing system (shutter 16) changes the illumination of an illumination system (light source 101). Mack further teaches that the control mechanism may include changing a scan speed of a stage, or changing an interval between pulse light emissions (col. 9 lines 5-8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mack as applied to claims 1, 2, and 4-9 above.

Mack only shows and describes the use of one reflectance detector, and not two as called for in this claim. However, it would have been obvious to provide a second detector, and a beam splitter for providing light to both of the detectors as a simple duplication of parts in order to

multiply the amount of positions for which the reflectance may be simultaneously measured, thereby increasing the efficiency of the system (see *In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,721,608 to Taniguchi discloses an exposure apparatus including a wafer reflectivity monitor.

U.S. Patent No. 5,581,324 to Miyai et al. discloses a projection aligner including a reflectance measuring mechanism.

U.S. Patent No. 6,002,467 to Nishi et al. discloses a projection aligner including a reflectance measuring mechanism and a changing system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Ben Esplin whose telephone number is (703) 305-4022. The examiner can normally be reached on Mon.-Fri. (8am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell E. Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Art Unit: 2851

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

*DBE*

DBE

May 27, 2003

*Russell Adams*

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